



LEGAL DIGEST: BANGLADESH, CAMBODIA, LAOS, MYANMAR, VIETNAM

Legislative developments - May 2022

LAWS AND REGULATIONS
PPP
<p><i>Tenders for a PPP project issued on 16 May 2022, named “Invitation for Bid (IFB) Notice for Establishment of 50-seat medical college and nursing institute and modernization of existing Railway Hospital to 250 beds at Kamalapur Dhaka on PPP mode’ with a closing date of 18 July 2022</i></p> <p>As a continuous effort to expand its social services, Bangladesh Railway is working on the upgrade and modernization of the Kamalapur railway Hospital. The existing hospital at Kamalapur is being upgraded to a 250-bed hospital, including a 50-seat medical college and nursing institute to be constructed on the unused land near Kamalapur station within the existing hospital complex; the upgrades will be completed by way of a PPP model.</p> <p>The proposed project was provided in-principal approval by the Cabinet Committee for Economic Affairs on 14 August 2013.</p>
Agriculture
<p><i>Agricultural Credit Department of Bangladesh Bank Circular No 2, dated, 22 May 2022, regarding “emphasizing disbursement of agricultural credit at a 4% concessional interest rate for cultivating import substitute crops (pulses, oilseeds, spices, and maize)”</i></p> <p>The government spends a significant amount of foreign exchange on importation of agricultural products annually. To minimize such importation, the government has reduced the interest rate on loans related to cultivation. According to the circular, the government instructed both public and private banks to provide loans for such kinds of cultivation, at 4% interest rate. This is set to produce more crops, and can also lead to reduced reliance on importation.</p>
Trade & Commerce
<p><i>Foreign Exchange Policy Department Circular Letter No. 15, dated 23 May 2022 regarding “easing disbursement of cash incentives against wage earners’ remittance through legal channels”</i></p>



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A previous government Circular, published on 20 May 2020, was aimed at providing incentives to those who wish to send remittance legally by submitting several documents from the Exchange House, (the foreign bank from where the sender is remitting money to their country). An incentive of 2.5% would be applicable for sending an amount of US\$5,000 or 500,000 taka or more.

The government published a new circular on 23 May 2022, deciding to provide a 2.5% incentive without requesting any documents from the sender for the above-mentioned amount of money (US\$5000 or 500,000 taka or more).

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Employment
<p><i>Notification No. 019/22 K. B/S.N.N. KL of the Ministry of Labor and Vocational Training (“MLVT”) dated 24 May 2022 on “Leave for the National Election”</i></p> <p>To ensure that all citizens will be able to vote in the upcoming national election on 5 June 2022, the MLVT is requiring all enterprises to provide two days leave, one day before and one day after election day (i.e. 4 June 2022 and 6 June 2022). Moreover, enterprises are encouraged to pay their employees their full salary for those days; if that is not possible, to provide at least partial pay.</p>
<p><i>Instruction No. 028/22 K.B/S/N.N.K. L by the MLVT dated 4 May 2022 on “Payment of Wages on Public Holidays that fall on a Sunday”</i></p> <p>Companies are instructed that for public holidays that fall on a Sunday, the MLVT does not permit providing a day off the next day in lieu of the holiday. Therefore, if the employer and employee agree that the employee will work on a public holiday that falls on a Sunday, the employer must pay overtime at the rate of 200%, or twice the wage for normal working hours. A detailed calculation is provided in the instruction.</p>
<p><i>Instruction No. 022/22 K. B/S.CH. N. A.T.K. by the MLVT dated 27 May 2022 on the “Implementation of the Self- Declaration Regime of Labor Inspection through the Online System”</i></p> <p>According to this instruction, all entities are required to submit a labor inspection report via the MLVT’s online system (https://sicms.mlvt.gov.kh) twice per year: (1) before the end of June; and (2) before the end of December every year. The report must include the 31 main points that are detailed in the letters in Annexes 1 and 2 of the instruction. If the report omits any of the 31 points, the owner or director of the entity will be fined immediately by the labor inspector in accordance with the applicable laws and regulations. Failure to submit a report or implement this instruction, will attract fines and/or prosecution.</p> <p>COVID-19 vaccination is considered a labor safety and health condition that needs to be completed as part of the self-declaration regime for labor inspection. Therefore, owners/directors must cooperate with the competent authority to facilitate their employees getting booster doses. The</p>

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labor inspectors will focus especially on data regarding employee vaccinations.

This obligation takes effect from **1 June 2022** onward.

Agriculture and environment

*Royal Kram No. NS/RKM/0522/004 by the King of the Kingdom of Cambodia dated 3 May 2022 to promulgate the “**Law on the Protection of Plants and Phytosanitary Measures**”*

This law aims to determine the management of the health of plants, and introduce phytosanitary measures to protect all types of plants, prevent contamination, promote agricultural productivity, food security, and sanitation, and ensure the quality and safety of agriculture products, and the phytosanitary security of plant products. It specifies the types of consignments subject to phytosanitary inspection in order to coordinate trade, exportation, importation, and the transport of plant products. The competent authority for implementation of this law is the Ministry of Agriculture, Forestry and Fisheries.

TMT

*Instruction No. 1217 B.T.A.B. by the Ministry of Posts and Telecommunications (“MPT”) dated 25 May 2022 on “**the Procedure to Request a License and Permit Letter for Express Delivery Services**”*

This instruction sets out the procedure for requesting or renewing licenses and permit letters for express delivery services through the MPT’s online system (<https://service.mptc.gov.kh/>) and then use CamdigiKey system. This procedure applies to companies based in Phnom Penh.

For branches of such companies that are located in the provinces, requests for permit letters must be made with the relevant Department of Posts and Telecommunications.

Official Fees:



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- License - valid for one year: **KHR4,200,000 (US\$1,050)**
- Permit letter - valid for one year: **KHR1,300,000 (US\$325)**

A review fee of **KHR20,000 (US\$5)** applies for all requests for new licenses or permit letters.

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Taxation
<p><i>Resolution No. 103/SCNA dated 9 May 2022 of the Standing Committee of the National Assembly on “the Adoption of Measures to Stabilize Fuel Prices in the Context of Fluctuating Fuel Prices”</i></p> <p>The Standing Committee of the National Assembly adopted the following measures to help stabilize the price of fuel in the face of rising fuel prices:</p> <ul style="list-style-type: none"> ▪ The excise tax rate on diesel has been reduced from 21% to 11%. ▪ The excise tax rate on regular gasoline has been reduced from 31% to 16%. <p>This reduction in excise tax rates is a temporary three-month measure, valid for the period 9 May 2022 to 8 August 2022.</p> <p>If the world market price of fuel decreases, the temporary measures imposed by this resolution will be repealed, and the normal excise tax rates will apply in accordance with the law.</p>
Immigration
<p><i>Notification No. 627/PMO dated 7 May 2022 issued by the Prime Minister’s Office on “New Measures to Enter and Stay in the Lao PDR during the COVID-19 Outbreak”</i></p> <p>The government announced the following regarding COVID-19 rules for entry into the Lao PDR:</p> <ul style="list-style-type: none"> ▪ All international border crossings will reopen. ▪ Bilateral and unilateral visa waiver agreements (which the Lao PDR has signed with relevant countries) will again be recognized, and visa on arrival and e-visa (electronic visa) applications will resume. ▪ All types of vehicles will be allowed to enter and stay in the Lao PDR as per the rules before the outbreak of COVID-19. ▪ Fully vaccinated travelers must obtain a vaccination certificate from the Ministry of Health of the Lao PDR before entry. ▪ Those not fully vaccinated must provide proof of a negative COVID-19 rapid antigen test taken within 48 hours of departure for the Lao PDR; those under the age of 12 are exempt from this requirement. <p>In addition, the government has allowed entertainment venues, including karaoke bars and clubs, to reopen.</p>
Metals & Mining



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Decision No. 674/MOEM dated 6 April 2022 issued by the Ministry of Energy and Mines on “New Licensing Requirements for Mining Service Activities in the Lao PDR”

Definition of mining service activities

Mining service activities are services relating to mineral exploration, surveying, map drafting, geophysical surveying, drilling, exploitation, transportation, analysis, mining consultancy, and other mining-related service activities.

Mining service activity categories

Mining service activities are divided into six categories:

- Mineral exploration and surveying
- Mineral drilling
- Mineral exploitation
- Geologic technical and consultancy services
- Mining technical and consultancy services
- Mineral analysis

Criteria for new applicants

The decision provides certain criteria for applicants, such as their prior experience in the field, financial status, and staffing, among others.

Application and documentation

The decision specifies what must be included in the application, which is similar to most licensing applications, such as corporate documents and company and management details.

Timeframe

According to the decision, if the application is approved, the license will be issued within 30 days of the date of submission of a complete and



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accurate application dossier.

Relevant authorities

The departments to manage and inspect mining service activities are:

- Mine Management Department
- Geology and Mineral Department

This decision entered into force on 12 May 2022 after it was published in the Lao Official Gazette on 27 April 2022.

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Banking & Finance

*Press release dated 27 April 2022 (published in “The Global New Light of Myanmar”) issued by the Central Bank of Myanmar regarding the “**Deposit of export proceeds within the time stipulated under the law**”*

The Central Bank of Myanmar (“**CBM**”) issued a press release on 27 April that directs exporters to adhere to forex management laws and regulations and deposit all their export earnings into their foreign currency accounts with licensed foreign exchange dealer banks within three months from the export date.

It further warned that action will be taken against such exporters under section 42A Foreign Exchange Management Law (one year’s imprisonment or a fine, or both for convicted persons) who fail to deposit the export proceeds within the time stipulated under the foreign exchange laws.

*Letter no. MaVaBa-1/105(FEMD)/ (195/2022) dated 25 May 2022 issued by the CBM regarding “**Making of domestic payments in Myanmar Kyat**”*

In this letter, the CBM reiterated that Notification 12/2022 requires foreign exchange dealer banks to convert USD received by them into Myanmar Kyat (“**MMK**”) within one business day from the date of receipt. Thus, all local payments must be made in MMK. It expressed its concerns that businesses set up with/without foreign investment and enterprises and organizations under respective Union Ministries are continually accepting the proceeds of business operations (e.g., proceeds from land leasing, payment of capital for insurance businesses, joint venture businesses) in foreign currency.

Accordingly, the CBM notified relevant Ministries, Regional/State Governments, Nay Pyi Taw Council, and City Development Committees of Yangon and Mandalay to direct the organizations under their management to ensure that payments made domestically are in MMK, and to report back to CBM upon issuing such directions.

Engineering and procurement



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State Administrative Council Law No. 40/2022 dated 26 April 2022 regarding “**Amendment of the Myanmar Engineering Council Law**”

Section 5 of the Myanmar Engineering Council Law (“**MECL**”) shall be substituted as follows:

“5. In forming the Myanmar Engineering Council with 60 members, the Panel of Patrons of the Council shall-

(a) select to assign duties to 10 each among the eligibly professional engineers as council members in accord with the criteria as follows: -

(1) professional engineers from ministries and government organizations related to the engineering arena,

(2) professional engineers from government departments, universities, colleges and institutes concerning the engineering and technological academic measures.

(b) select to assign duties to eligibly retired professional engineers from ministries, government organizations, engineering and academic technological measures-related government departments, universities, colleges and institutes concerning the engineering arena as council members.

(c) select to assign duties to 15 each among the following eligibly professional engineers as council members—

(1) professional engineers from non-governmental engineering societies

(2) renowned professional engineers.”

3. Sub-section (f) of Section 8 of the MECL shall be substituted as follows: -

“(f) The Panel of Patrons shall legally form the new council under the permission of the responsible ministry within 60 days from the date the existing council term shall be invalid and order to hand over the duties.”

4. Sub-section (g) of Section 8 of the MECL, below Sub-section (f), shall be substituted as follows: -

“(g) The existing council shall serve the duties and functions until the new council has been formed.”



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Employment and Pension

*Official Dispatch No. 1312/LDTBXH-ATLD dated 26 April 2022 by the Ministry of Labor, War Invalids and Social Affairs on “**Guidance on the Implementation of Decree No. 17/2022/UBTVQH15 on Increasing Overtime Hours in the Context of Economic Recovery**”*

The Ministry of Labor, War Invalids, and Social Affairs asks provinces and centrally affiliated cities to pay attention to the following with regard to overtime:

- Cases where employers may assign their employees to work overtime for a maximum of 300 hours per year are prescribed in Clause 1, Article 1 of Decree No. 17/2022/UBTVQH15 and Clause 3, Article 107 of the Labor Code.
- Cases eligible for the maximum 300 hours of overtime per year are also eligible for 40 to 60 overtime hours per month as of 1 April 2022 (but not exceeding 300 hours per year).
- In doing so, employer must fully comply with other regulations on overtime hours in the Labor Code and its guiding documents.
- When organizing overtime work for 201 to 300 hours per year, employers must notify the Department of Labor, War Invalids, and Social Affairs as prescribed in Clause 4, Article 107 of the Labor Code and Article 62 of Decree No. 145/2020/ND-CP of the Government.

The regulations under Decree No. 17/2022/UBTVQH15 are in effect until 31 December 2022, unless the validity period is extended by the National Assembly.

Medical and Health

*Decision No. 1294/QĐ-BYT dated 19 May 2022 by the Ministry of Health on “**the National Nutrition Strategy and Action Plan to 2025, including Requirements for Formulating Regulations on Imposing Excise Taxes on Sugar-Sweetened Beverages (Sugary Drinks)**”*



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To address emerging and urgent nutrition issues, the Ministry of Health will be formulating nutrition-relevant policies such as:

- Regulations on limiting the advertising, promotion, and sponsorship of brands of unhealthy foods, especially for children, and excise taxes on sugar-sweetened beverages.
- Policies on having health insurance cover things such as counseling and treatment services for children with severe acute malnutrition, pasteurized donor human milk for premature and ill infants, etc.
- Technical guidelines for the micronutrient fortification of food.
- Technical standards for school meals, regulations on nutrition and physical activities in schools, and regulations on school canteen operations to ensure the supply of healthy food for students.
- Guidelines on proper national nutrition, appropriate physical activities for target groups, and the prevention and control of obesity and non-communicable diseases.
- Recommendations on workers' meals suitable for their jobs, which will be disseminated for use at production and business facilities and industrial zones.
- Guidelines for nutrition counseling and breastfeeding support for workers who do not work under employment contracts.

Decision No. 1294/QĐ-BYT entered into force on 19 May 2022.

Import and Export Policy

Official Dispatch No. 1478/TCHQ-GSQL dated 16 April 2022 by the General Department of Customs on “Responses to Questions about Customs Procedure Codes”

Below are some pertinent questions and answers from the official dispatch:



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Question: Do export-processing enterprises that conduct inland liquidation of commodities, supplies, and machinery use customs procedure code B13?

Answer: According to Point b, No. 3 of Decision No. 1357/QĐ-TCHQ, export-processing enterprises that conduct inland liquidation of imported goods will use customs procedure code B13.

Question: In Article 21 of Circular No. 38/2015/TT-BTC (amended by Circular 39/2018/TT-BTC) on customs procedures for the declaration of goods that are repurposed or sold domestically, what should be done when an enterprise repurposes (rather than sells domestically) temporarily imported goods while the customs procedure code for such matter has yet to be clearly stipulated?

Answer: Temporarily imported goods can only be re-exported, or sold domestically if not re-exported.

If temporarily imported goods are repurposed (thus subject to other regulations on customs management) and not domestically sold, the declaration of temporary import must be finalized by making a declaration of re-export before making a declaration of import according to the new purpose for further management and supervision (for example, imported for the processing or manufacture of goods for export, etc.).

Tax & Accounting

*Decree No. 32/2022/ND-CP dated 21 May 2022 of the Government on “**Extending the Time Limit for Paying Excise Tax for Domestically-Manufactured or Assembled Automobiles**”*

The procedure to extend the time limit to pay excise tax on domestically-manufactured and assembled cars is as follows:

- Taxpayers send a written request for the extension using the form provided in the appendix attached to the decree to the tax authorities once for all four periods for which the extension is allowed (i.e. June, July, August, and September 2022).
- Taxpayers are solely responsible for the extension request to ensure the correct beneficiaries.



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- The tax authorities are not required to notify taxpayers of their acceptance of the extension of the excise tax payment deadline.
- During the extension period, the tax authorities will not charge late payment interest on the excise tax amount. However:
 - If, during the extension period, there is a basis to determine that the taxpayer is not eligible for the extension, the tax authorities will issue a written notice of termination of the extension and the taxpayers will have to pay the full amount of tax and late payment interest covering the extension period into the State budget.
 - If it is found that the taxpayer was not eligible for the extension after the extension period expires, the taxpayer must pay the outstanding tax, fine, and late payment interest to the State budget.

The deadline for paying excise tax on domestically-manufactured and assembled cars arising in the tax period of June, July, August, and September 2022 has been extended to 20 November 2022.

Decree No. 32/2022/ND-CP is in effect from the signature date to 31 December 2022.

*Decision No. 508/QĐ-TTg dated 23 April 2022 by the Prime Minister “**Approving the Tax System Reform Strategy to 2030**”*

A number of initiatives are provided in the decision to reform the country’s value added tax (“VAT”) policy, as follows:

- Expanding the tax base by reducing the types of goods and services that are not subject to VAT and the types of goods and services that are subject to the 5% tax rate.
- Applying a single tax rate.
- Researching to increase the VAT rate according to the roadmap.
- Reviewing and adjusting the revenue threshold for applying the deduction method to a more realistic level.
- Researching and uniformly applying the tax calculation method according to the percentage of revenue for taxpayers whose turnover is below the threshold or are not eligible to apply the deduction method.
- Finalizing regulations related to VAT on exported goods and services, ensuring that they reflect the true nature and international



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<p>practices.</p> <ul style="list-style-type: none"> ▪ Researching and amending and supplementing regulations on tax deduction and VAT refund with a view simplifying them, making them more transparent, and bringing them in line with the relevant laws. <p>Decision No. 508/QĐ-TTg entered into effect on the signature date.</p>
Securities
<p><i>Circular No. 24/2022/TT-BTC dated 7 April 2022 by the Ministry of Finance on “Amendments to Circular No. 48/2019/TT-BTC Providing Instructions about the Creation and Management of Provisions for the Devaluation of Inventories, Loss of Investments, Bad Debts, and Warranties for Products, Goods, Services, or Construction Works at Enterprises”</i></p> <ul style="list-style-type: none"> ▪ Securities subject to the provisioning requirement for protection against investment losses are those issued by domestic business entities in accordance with the law and under an enterprise’s ownership that are: <ul style="list-style-type: none"> - Listed or registered on the domestic securities market; and - Are freely traded on the market at the actual price determined at the time of completion of the annual financial statements, which is less than the book value of the investments in securities. ▪ Government bonds, government-guaranteed bonds, and municipal bonds are exempt from such provisioning requirement (note that this exception is new). <p>Circular No. 24/2022/TT-BTC entered into force on 25 May 2022.</p>
Banking and Finance



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Guideline No. 25/HD-VKSTC dated 18 April 2022 by the People's Supreme Procuracy on "Settling Economic Cases Relevant to Credit Contract Disputes"

The guideline highlights some common violations that occur while settling economic cases relevant to credit contract disputes, such as:

- A credit contract dispute is usually settled in two separate parts. If part of a judgment/decision is erroneous, only that part will be cancelled, instead of the entire judgment/decision.
- Both spouses must be included in a case where the mortgaged property is owned by one of them during the marriage.
- In case an enterprise is shut down or dissolved, instead of suspending the case, the court must identify individuals and organizations that are the enterprise's members and can participate in the proceedings to settle the case under general procedures.

The court shall accept and settle credit contract dispute cases according to general regulations on the statute of limitations for initiating legal action in Clause 2, Article 155 of the Civil Code of 2015.



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Decree No. 31/2022/ND-CP dated 20 May 2022 of the Government on “Interest Rate Support from the State Budget for the Loans of Enterprises, Cooperatives, and Business Households”

The interest rate support for enterprises, cooperatives, and business households is 2% per year, calculated on the loan balance if the term of the loan eligible for interest rate support is within the specified period.

The term of interest support is calculated from the date of loan disbursement to the time when the customer pays off the principal, but must not exceed 31 December 2023.

To access this interest rate support, the following conditions must be met:

- The customer has requested interest rate support, meets the loan conditions of the current law on lending activities of credit institutions and foreign bank branches to customers; and
- The loan is a loan in VND with a signed loan agreement that is disbursed during the period 1 January 2022 to 31 December 2023.

Decree No. 31/2022/ND-CP entered into effect on 20 May 2022.

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